

James A. Wilderotter Esq
Jones, Day, Reavis & Pogue
51 Louisiana Avenue, N.W.
Washington D.C. 2001-21113, USA
By Fax: 00 1 202 626 1700

Mark A. Clodfelter Esq
Barton Legum Esq
Office of the Legal Adviser (L/CID)
United States Department of State
2430 E Street, N.W.
Suite 203, South Building
Washington DC 20047-2800, USA
By Fax: 00 1 202 776 8389

22 December 2000

Dear Colleagues,

Re: NAFTA Arbitration (Methanex)

The Tribunal has considered the parties' submissions on the existing procedural time-table, namely the Claimant's Notice of Change of Legal Counsel and Intent to file an Amended Claim dated 30th November 2000, the Respondent's letter dated 7th December 2000 and the Claimant's letters dated 11th and 15th December 2000.

As appears from the Claimant's Notice (page 2), the Claimant requested that the Tribunal allow the Claimant to serve an Amended Statement of Claim in these arbitration proceedings and fix a date for service of that Amended Statement of Claim, namely 28th February 2001. As recognised by the Respondent (which opposes any change to the current time-table), that new date would require the Tribunal and the parties to abandon the time-table fixed at the Second Procedural Meeting on 7th September 2001, without the Tribunal even seeing any draft amendment to the Claimant's Statement of Claim.

The Tribunal has a discretion to disallow the Claimant's proposed amendment under Article 20 of the UNCITRAL Arbitration Rules; and in the absence of consent from the opposing party, a claim may not be amended if that amended claim should fall outside the scope of the "arbitration clause or separate arbitration agreement". Before exercising any discretion or making any ruling on scope, the Tribunal requires at least sight of a draft Amended Statement of Claim. The Respondent would also be entitled to make submissions relating to a draft pleading, rather than a mere broad intimation of a new or modified claim. Accordingly, in the Tribunal's view, it cannot now be appropriate for the Tribunal to fix any date for service of the Claimant's Amended Statement of Claim, whether based on the Claimant's existing notice under Article 1119 of NAFTA or any new "superseding" notice under Article 1119 to

V. V. Veeder QC

Essex Court Chambers
24 Lincoln's Inn Fields
London WC2A 3ED

Telephone: (Int + 44) 20 7813-8000
Fax (as Arbitrator): (Int + 44) 20 7813-2024
Fax (as Counsel): (Int + 44) 20 7813-8080
E-mail: 100662.2602@compuserve.com

be served by the Claimant hereafter (currently intimated for service on 22nd December 2000 next, by the Claimant's letter dated 15th December 2000).

In the circumstances, the current procedural time-table must stand; and under Item 5 of the Minutes of Order of the Second Procedural Meeting, the Claimant is required by the Tribunal to serve its First Memorial on Jurisdiction and Admissibility by 12th January 2001. The Tribunal may wish to re-assess the current time-table in the light of that Memorial, particularly if (as now intimated by the Claimant) the Memorial curtailed the existing issues on admissibility and jurisdiction and/or if it were accompanied (or even preceded) by a draft Amended Statement of Claim modifying the Claimant's current pleadings. If the Tribunal were then to make that re-assessment, in the continued absence of consent between the parties, it would also wish to invite each of them to make further submissions to the Tribunal on the subsequent stages of the current procedural time-table.

Yours Sincerely,



V.V. Veeder

cc Mr William Rowley QC: by fax: 00 1 416 865 5519; and Mr Warren Christopher:
by fax: 00 1 310 246 8470.